

# **MINUTES OF THE COMMISSION FOR HUMAN RIGHTS**

**MARCH 30, 2006**

**A regular meeting of the Commission for Human Rights was held in the agency conference room on March 30, 2006. Present at the meeting were Commissioners Alton Wiley, Jr., Iraida Williams and John B. Susa, Chair. Absent from the meeting were Commissioners Jean P. Stover, Randolph Lowman, Alberto Aponte Cardona and, Camille Vella-Wilkinson. The Chairperson called the meeting to order at 9:03 a.m.**

**A motion to approve the February 23, 2006 regular minutes was made by Commissioner Williams. The motion was seconded by Commissioner Wiley and carried.**

**The Commissioners reviewed the minutes of the executive session held on February 23, 2006. Commissioner Susa moved that the minutes of the executive session held on February 23, 2006 be kept closed pursuant to R.I.G.L. Sections 42-46-4, 42-46-5 and 42-46-7(c), as the executive session involved discussion of job performance, and thus the minutes can be held closed under R.I.G.L. Section 42-46-5(a)(1). Commissioner Williams seconded the motion and the motion carried.**

**Commissioner Williams moved to approve the February 23, 2006**

**executive session minutes. The motion was seconded by Commissioner Wiley and carried.**

## **STATUS REPORT: MICHAEL D. ÉVORA, EXECUTIVE DIRECTOR**

**Mr. Évora handed out a written report. All the new information was in bold print.**

**Case Production Report – Attached.**

**AGED Case Report – Attached.**

**Outreach Report – Attached.**

## **STATUS REPORT: COMMISSIONERS**

**General Status: no report**

**Outreach: no report.**

**Commissioner Meeting -2- March 30, 2006**

**STATUS REPORT: LEGAL COUNSEL, Cynthia Hiatt and Francis Gaschen**

**Litigation: Report attached.**

**Legislation: Mr. Gaschen and Ms. Hiatt reported on various bills that have been introduced that might affect the Commission and/or civil rights.**

**Regulations: No discussion at this time.**

**Hearing schedule: Discussed.**

**Decisions: No discussion at this time.**

**Commissioner's moved to adjourn the meeting. The motion was seconded and carried. The meeting adjourned at 9:40 a.m. The next scheduled meeting will be held on April 27, 2006 at 9:00 am.**

**Respectfully submitted,**

**Michael D. Évora**  
**Executive Director**

**Notes taken by C. Hiatt and**  
**Betsy Ross**

**EXECUTIVE DIRECTOR'S**  
**REPORT TO COMMISSIONERS**  
**MARCH 30, 2006**

**I. BUDGET**

**On September 13, 2005, the Commission submitted its annual budget request (FY 2006 Revised and FY 2007 Proposed) to the Governor. The salient details are:**

	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2007</b>
	<b>(Revised)</b>	<b>(Request)</b>	<b>(Recommended)</b>
<b>State</b>	<b>1,005,908</b>	<b>1,058,230</b>	<b>1,075,216</b>
<b>Fed.</b>	<b>312,482</b>	<b>324,862</b>	<b>329,678</b>
<b>Total</b>	<b>1,318,390</b>	<b>1,383,092</b>	<b>1,404,894</b>

**The Governor's FY 2007 Recommendation, although representing an increase of \$21,802 over our request. Involves a proposed reduction of 0.6 FTE. This is part of the Governor's "reduction-in-force" initiative in an attempt to decrease state-funded staffing statewide. According to Theo Toe, Budget Analyst, and Linda Haley, House Fiscal Agent, the Commission can make a case for an amendment to the proposed reduction when it has its hearing before House Finance.**

**If an amendment is not made, the Commission can request an exemption from the staff reduction requirement from the Budget Office once the budget is passed. In the alternative, the Commission can attempt to identify other expenditures that can be cut in FY 2007 to make up for the proposed FTE reduction. (According to a report from Ms. Haley, the 0.6 FTE reduction is equal to \$41,669.)**

## **II. FEDERAL CONTRACTS**

**EEOC – As of 2/28/06, according to EEOC Project Director Marlene Toribio, we have closed 97 co-filed cases. Our FY 2006 contract is for 367 cases.**

**\*\*After decades of no change, the EEOC has voted to increase the per case reimbursement rate from \$500 to \$540!**

**HUD – For FY 06, as of 3/29/06, according to HUD Project Director Angela Lovegrove, we have taken in 36 new housing charges, 27 of which are co-filed with HUD. Within this same time period, we have processed 30 housing charges, 20 of which were co-filed with HUD.**

### **III. PERSONNEL**

**Allison Cote, Sr. Compliance Officer, has returned to work on a part-time basis.**

**Nicholas Palazzo, Senior Compliance Officer, has retired from state service (effective 3/24/06). A Request for Personnel Action (RFPA) to fill this vacancy was submitted to the Personnel Office on March 28, 2006. Pending approval of the RFPA by Personnel/Budget, the Commission will begin the posting/interview/selection process.**

### **IV. OUTREACH – Refer to attached report.**

### **V. GENERAL STATUS**

**&#9679;Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.**

**&#9679;Case Closures – Refer to attached report.**

**&#9679;Aged Cases – Refer to attached report. Progress continues**

to be made on decreasing the aged caseload. The Commission successfully reduced the aged caseload by 77% in FY 2005 (from 26 to 6 cases).

&#9679;Commissioner (Re)Appointments – On January 27, I forwarded to the Governor the résumés of Commissioners Susa and Wiley, conveying their desire to be reappointed. Via the same cover letter, I transmitted the résumés of former Commission employees Nancy Kolman and Gloria Hole, both of whom have expressed interest in serving as a Commissioner.

On 2/1/06, Governor Carcieri sent a letter to the Senate seeking their advice and consent to the appointment of Commissioner Wiley to a term expiring 2/1/10.

On 3/27/06, I contacted Christine DiFilippo in the Governor's Office for a status check on the reappointment of Dr. Susa and the appointment of someone to replace Commissioner Stover. Ms. DiFilippo, who had just returned from maternity leave, said she needed to check on the status of (re)appointments and agreed to contact me ASAP. As of the writing of this Report, I have not received a response.

&#9679;Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. That number has steadily decreased. The Commission ended FY 2004 with 602 cases in inventory. We ended FY 05 with 382 cases in inventory and, as of 3/14/06, had 391 cases in inventory.

**&#9679;Mediation – The Early Intervention Mediation Program, one of my major goals for this fiscal year, has been implemented. Frank Gaschen and I have identified several newly-filed cases for targeted mediation. Letters of invitation have been sent to the parties in those cases and mediation sessions are being scheduled. Susan Gardner successfully mediated the first EIMP case on March 10.**

- Miscellaneous**

**-The Commission has been selected as one of three agencies to conduct a study of “maximum target caseloads” with FY 2006 as the study period. Cynthia Hiatt, Frank Gaschen, Susan Pracht and I are participating in monthly meetings with Union officials to facilitate the study, which includes a survey of the New England regional FEPAs. In addition to studying maximum caseloads, the Commission is exploring the possibility of minimum case production requirements for investigative staff. An internal survey of investigative staff has been conducted. A report of findings, conclusions and recommendations is in the initial stages.**

**-Two grievances were filed against the Commission related to 1) interpreting services provided by staff, and 2) payment of Union dues by temporary employees (Jay Flanders and Susan Pracht). Both grievances were denied after a third-level hearing (held on October 19, 2004). The Union has appealed the denial of the second grievance; arbitration has been scheduled for October 20, 2006.**



**-FY 2005 Annual Report: The Report is in! Copies have been distributed to RI General Officers, members of the General Assembly, members of the judiciary and various organizations/individuals.**

**-Susan Pracht is in contact with representatives of the Providence School District in an attempt to coordinate a youth outreach (combined effort of Commission and EEOC) for some time in the Spring.**

**Respectfully submitted,**

**Michael D. Évora  
Executive Director**

**Attachments**

**To: Commissioners**

**From: Cynthia Hiatt and Frank Gaschen, Legal Counsels**

**Re: Litigation**

**Date: March 30, 2006**

**Recent developments are in bold.**

**American Legion Bd. of Gov's. v. American Legion #12**

**The Board of Governors for the respondent filed a petition for Receivership. The Commission filed a Motion for Relief from Stay of**

**Proceedings so that the Commission and the complainants may file a Petition to Enforce the Decision and Order of the Commission in the matter of Cote, et. al v. American Legion #12. Hearing on the Motion has not been re-scheduled.**

**Babbitt v. Crescent Park Manor, et al.**

**The Commission filed a motion to intervene as a party plaintiff in this case. Plaintiff's counsel had no objection to the motion. The motion was granted. Discovery has commenced.**

**Bagnall v. RICHR and WLWC et al.**

**The complainant has appealed the Commission Decision and Order. Copies of the administrative record have been made and the record is being assembled.**

**Derosa, et al. v. Rossi, et al.**

**A motion for RICHR to intervene, as a party defendant in this appeal from a Commission Decision, was Granted. Motion to dismiss the long-inactive appeal has been filed with a hearing set for March 7, 2006. A briefing schedule was set by Order of the Court.**

**Gaffney v Town of Cumberland et al**

**The respondent appealed the Commission decision. The parties and**

the Commission filed briefs. The case was assigned to Judge Savage. Judge Savage held a status conference with the attorneys, including Commission counsel, on January 21, 2005. Judge Savage indicated that she was close to issuing a decision but wished to give the parties an opportunity to discuss resolution. The attorneys for the complainants and respondents planned to discuss the case. Another status conference was scheduled with Judge Savage on February 14, 2005; it was put on hold because Mrs. Gaffney was out of state. After a number of settlement attempts, it did not appear that resolution was near. On 1/4/06, I wrote a letter to the parties stating that if I did not hear from them by 2/6 that the case was close to resolution, I was planning to write Justice Savage to ask her to issue her decision. Not having heard from the parties, on 2/8/06, I wrote Justice Savage and asked her to render her decision as it did not appear to me that the parties would resolve the matter.

**Idowu v. Rhode Island Commission for Human Rights and Cohoes Fashions of Cranston, Inc.**

The complainant has appealed the Commission Decision and Order. Copies of the administrative record have been made and the record is being assembled.

**Joint v. DeMarkey and Rhode Island Commission for Human Rights**

The individual respondent filed an appeal of the Commission

**Decision and Order. The Commission issued the decision on attorney's fees. The respondent filed an amended appeal to include its appeal of the Commission Decision on Attorney's Fees. The Commission filed the administrative record. The parties agreed to a briefing schedule, Mr. Joint's brief was due June 1. The Commission brief and the complainant's brief were due 30 days after we received Mr. Joint's brief. Mr. Joint received an extension to file his brief; it was due June 30 and was filed in time. The Commission and the complainant asked to have an extension to file our briefs. The parties agreed that the time for filing these briefs was extended to August 31.**

**The Commission Brief was filed on August 30. The complainant's brief was filed at the end of September. The respondent's time to file a reply brief was extended to November 30, 2005. The respondent requested one more extension and the Commission agreed. Mr. Joint filed his reply brief on December 16, 2005. The complainant has filed a short reply to the reply brief and the appeal has been assigned to Special Magistrate Joseph Keough.**

### **King v. City of Providence Police Dept.**

**This is a case in which the Commission issued a decision finding that the City of Providence had denied Mr. King a position as a police officer because of his age. The Commission had not yet determined damages when the FUD's decision came down, so the Commission decision was not final and the respondent had the opportunity to have the case heard in Superior Court. The respondent elected to**

have the matter heard before the Superior Court. The complainant conducted a record deposition of Cynthia Hiatt on March 12. The parties have also deposed former Commission employee Nancy Kolman. Ms. Hiatt has been subpoenaed to testify at the trial. The date is not certain but it appears that it will be in early April.

#### **RICHR and Powell v. Cenada.**

The respondent elected to have this housing matter resolved outside of the Commission. A notice was sent to the complainant regarding the election and he was advised of his rights and responsibilities. A copy of the file was sent to the AG. Deadline for filing suit is March 22, 2006. A reminder notice has been sent to the complainant. Suit has been filed and a copy of the complaint has been sent to the attorney for the respondents who has agreed to accept service.

#### **RICHR and Lovegrove v. Escolastico**

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-24-05. Motions for extended time within which to serve and for special service were filed. The motions were granted. Defendant was served in Florida. Hearing scheduled for January 4, 2006 on request for default judgment. Default was entered. An Exemplified Judgment was ordered. After it is received, the plan is to find counsel in FL willing to handle a Debt on Judgment case.

**RICHR and Morin v. Teofilo Silva, et al.**

**A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-24-05. Service of the complaint will be made once respondent can be located. Motions for extended time within which to serve and for special service were filed. The motions were granted. Service has not been perfected yet.**

**RICHR and Rossi v. Attruia**

**A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-29-05. Judgment entered against Defendant. Two payments on the judgment have been made on schedule.**

**RICHR and Scurry v. C & H Investments, et al.**

**A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 9-1-04. Defendants were served on 9-13-04. No answer was filed, the defendants defaulted and judgment entered. Further legal action is being taken to collect the judgment. FL counsel is filing complaint.**

**RICHR and Solis v. Lombardo**

**The respondents filed an appeal of the Commission decision that found discrimination. The respondents' appeal was dismissed for lack of action. A petition to enforce the Decision of the Commission**

was filed. The complainant was paid and we have negotiated resolution of the relief to the Commission. Follow-up sent to respondent's attorney regarding compliance.

**RICHR v. Warner, et al.**

Election letter in this housing case was sent to complainant (Sainrelus) outlining her rights. AG declined the case. Superior Court action filed on behalf of RICHR as complainant declined to sue. Case settled. Awaiting signed release from Ms. Sainrelus.

**RICHR and Zeigler v. Laura Sitrin, Finance Director of the City of Newport**

The Commission found discrimination in 1988. The respondent filed an appeal but did not take action on the appeal, but the appeal was dismissed. The Petition for Enforcement was filed. The complainant was paid. All remaining issues appeared resolved in Court on 4-15-05, and the City objected to the Order. A hearing was held on February 6, 2006, and the Court held that the City must conduct the training. Training proposed by City has been approved.

**RICHR v. Starnino**

Action was commenced on this file, an enforcement action of a negotiated settlement of a 1987 charge. An offer to compromise was given to the respondent. Case settled. Two of three payments have been received.

## **Schooner Cove Homeowners Association v. Dennis Malloy and the Rhode Island Commission for Human Rights**

**Schooner Cove Homeowners Association, the respondent in a housing case currently scheduled for hearing before the Commission, filed an amended complaint in Superior Court which added the Commission as a defendant. Schooner Cove sought a temporary restraining order (TRO) to stop the Commission hearing scheduled for December 15. At the TRO hearing, Judge Rubine appeared disinclined to stop the Commission hearing but he did express concerns about the Commission hearing Schooner Cove's motion to dismiss and then immediately proceeding to a hearing on the merits. The parties (including the Commission) agreed to a consent order stating that the Commission hearing would go forward on December 15 on the motion to dismiss only, that if the motion to dismiss was denied, the Commission would consult with the parties on the dates for rescheduling the hearing on the merits. The complainant, Dennis Malloy, has filed a motion to dismiss the court complaint that was scheduled to be heard on January 17. The motion has been rescheduled to April 17.**

## **Tucker v. Blue Cross**

**The complainant filed an administrative appeal of the Commission's finding of no probable cause. The Commission is currently seeking a stipulation on the record to be filed; two of the three attorneys have signed it and we are waiting for the third. Two reminders sent to the**



**third attorney. The administrative record was filed in Court.**

## **RHODE ISLAND COMMISSION FOR HUMAN RIGHTS**

### **AGED CASE REPORT\***

**(EEOC FY 2003)**

#### **DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED**

**11/25/02 158 9 149**

**12/20/02 148 9 139**

**1/24/03 139 9 130**

**2/24/03 125 9 116**

**3/25/03 115 9 106**

**4/22/03 105 9 96**

**5/23/03 93 9 84**

**6/25/03 86 9 77**

**7/23/03 82 9 73**

**8/28/03 69 9 60**

**9/23/03 66 9 57**

**9/30/03 63 9 54**

**\*Figures reflect open cases filed between July 1, 1987 and June 30, 1998**

**Aged case load reduced in EEOC FY 2003 by 63.8%**

**RHODE ISLAND COMMISSION FOR HUMAN RIGHTS**

**AGED CASE REPORT\***

**(EEOC FY 2004)**

**DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED**

**10/28/03 85 12 73**

**11/28/03 71 12 59**

**12/26/03 62 12 50**

**(32 investigation;**

**18 hearing/conciliation)**

**1/28/04 54 12 42**

**(27 investigation;**

**15 hearing/conciliation)**

**2/25/04 48 12 36**

**(20 investigation,**

**16 hearing/conciliation)**

**3/19/04 44 12 32**

**(18 investigation,**

**14 hearing/conciliation)**

**4/26/04 40 12 28**

**(15 investigation,**

**13 hearing/conciliation)**

**5/26/04 39 12 27**

**(15 investigation,**

**12 hearing/conciliation)**

**6/22/04 34 9 25**

**(13 investigation,**

**12 hearing/conciliation)**

**7/9/04 28 9 19**

**(9 investigation,**

**10 hearing/conciliation)**

**7/28/04 28 9 19**

**(9 investigation,**

**10 hearing/conciliation)**

**9/23/04 16 1 15**

**(5 investigation,**

**10 hearing/conciliation)**

**\*Figures reflect open cases filed between July 1, 1987 and June 30, 1999**

**Aged case load reduced in EEOC FY 2004 by 81.2%**

**AGED CASE REPORT\***

**(EEOC FY 2005)**

**DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED**

**10/12/04 26 2 24**

**(8 investigation,  
16 hearing/conciliation)**

**11/18/04 21 2 19**

**(7 investigation,  
12 hearing/conciliation)**

**12/7/04 18 2 16**

**(5 investigation,  
11 hearing/conciliation)**

**1/7/05 17 2 15**

**(5 investigation,  
10 hearing/conciliation)**

**2/8/05 14 1 13**

**(4 investigation,  
9 hearing/conciliation)**

**3/4/05 13 1 12**

**(3 investigation,  
9 hearing/conciliation)**

**4/7/05 12 1 11**

**(2 investigation,  
9 hearing/conciliation)**

**5/6/05 11 1 10**

**(1 investigation,**

**9 hearing/conciliation)**

**6/3/05 11 1 10**

**(1 investigation,**

**9 hearing/conciliation)**

**7/5/05 7 1 6**

**(0 investigation,**

**6 hearing/conciliation)**

**8/9/05 7 1 6**

**(0 investigation,**

**6 hearing/conciliation)**

**9/1/05 7 1 6**

**(0 investigation,**

**6 hearing/conciliation)**

**9/30/05 6 1 5**

**(0 investigation,**

**5 hearing/conciliation)**

**\*Figures reflect open cases filed on or before September 30, 2000**

**Aged case load reduced in EEOC FY 2005 by 77%**

## **AGED CASE REPORT\***

**(EEOC FY 2006)**

**DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED**

**11/02 158**

**10/03 85**

**10/04 26**

10/7/05 14 1 13

(1= investigation,  
12=hearing/conciliation)

11/4/05 10 1 9

(1=investigation,  
8=hearing/conciliation)

12/8/05 9 1 8

(1=investigation,  
7=hearing/conciliation)

1/9/06 7 1 6

(1= investigation,  
5=hearing/conciliation)

2/1/06 6 1 5

(1 = investigation,  
4= hearing/conciliation)

3/2/06 6 1 5

( 1 = investigation,  
4=hearing/conciliation)

4/

( investigation,  
hearing/conciliation)

5/

( investigation,  
hearing/conciliation)

6/

( investigation,

hearing/conciliation)

7/

( investigation,

hearing/conciliation)

8/

( investigation,

hearing/conciliation)

9/

( investigation,

hearing/conciliation)

**\*Figures reflect open cases filed on or before September 30, 2001**

**Aged case load reduced in EEOC FY 2006 by XX%**